

§ 19.133

(1) *Outgoing proprietor.* An outgoing proprietor must comply with the requirements of §19.147. An outgoing proprietor may transfer spirits to its successor in accordance with §19.141.

(2) *Successor proprietor.* A successor to the proprietorship of a plant that holds an operating permit:

(i) Must file form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) and obtain an operating permit;

(ii) Must file the required bonds; and

(iii) May adopt the approved formulas of its predecessor in accordance with §§5.28 and 20.63 of this chapter.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must comply with the provisions of paragraph (a)(2) of this section. The following rules also apply in this case:

(1) The fiduciary may furnish a consent of surety to extend the terms of the predecessor's bond instead of filing a new bond;

(2) On TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), the fiduciary may incorporate by reference any information contained in the predecessor's application that is still current;

(3) The successor must furnish a certified copy of the order of the court or other pertinent document showing the successor's qualification as fiduciary; and

(4) The effective date of the qualifying documents that the fiduciary files will be the date of the court order, the date specified in the order whereby the fiduciary assumes control, or if there is no court order, the date that the fiduciary assumed control.

(26 U.S.C. 5172)

§ 19.133 Partnerships.

(a) If there is a death or insolvency of a partner in a company that holds an operating permit under this part, the surviving partner or partners may continue to operate under the operating permit if:

(1) The partnership is not terminated under the laws of the particular State but continues until the winding up of the partnership affairs is complete;

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(2) The surviving partner or partners have exclusive right to the control and possession of the partnership assets for purposes of liquidation and settlement; and

(3) A consent of surety is filed where the surety and the surviving partner or partners agree to remain liable on the operations or unit bond.

(b) If the surviving partner or partners acquire the business upon settlement of the partnership, the surviving partner or partners must file as an incoming proprietor and receive approval of the operating permit as required under §19.132(a)(2).

(26 U.S.C. 5172)

§ 19.134 Change in location.

If the location of the plant changes, the proprietor must:

(a) File form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), to amend the operating permit;

(b) File a new bond or a consent of surety on form TTB F 5000.18; and

(c) Not begin operations at the new location prior to approval of the amended operating permit.

(26 U.S.C. 5172, 5271, 5173)

§ 19.135 Change in operations.

If the proprietor wishes to conduct additional operations involving spirits, other than those already approved on the current operating permit, the proprietor must:

(a) File form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) to amend the permit; and

(b) Not engage in the additional operation prior to approval of the amended permit.

(26 U.S.C. 5171, 5172, 5271)

ALTERNATION OF PLANT PROPRIETORS

§ 19.141 Procedures for alternation of proprietors.

(a) *General.* A proprietor may alter use of a distilled spirits plant or part of the plant with one or more other proprietors. In order to do so, each proprietor must separately file and receive approval of the necessary registration, applications and bonds that are required by subparts D and E